

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

COMMUNITY FINANCIAL SERVICES
ASSOCIATION OF AMERICA, LTD., *et al.*

Plaintiffs,

v.

CONSUMER FINANCIAL PROTECTION
BUREAU, and DAVID UEJIO, in his official
capacity as Acting Director of the Consumer
Financial Protection Bureau,¹

Defendants.

Civil Action No. 1:18-cv-00295

DEFENDANTS' RESPONSE TO NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs' recent notice of supplemental authority, ECF No. 88, brings to the Court's attention a dissent from the denial of rehearing in *CFPB v. Seila Law LLC*, 984 F.3d 715 (9th Cir. 2020), *as amended*, 2020 WL 9595879 (May 14, 2021). But what is most relevant here is that, in denying rehearing, the full Ninth Circuit declined to disturb its holding that the Bureau validly ratified the action at issue in that case. The dissent disputed that result based on its view that ratification is not a sufficient remedy and that the Bureau lacked authority to take any action until the Supreme Court's ruling in *Seila Law* that the removal restriction could not be enforced. The Bureau previously addressed these points in this case in its summary judgment briefing. *See* Bureau Cross-Mot. for Summ. J. at 9-15, 19-20 (ECF No. 82); Bureau Reply in Supp. of Cross-Mot. for Summ. J. at 6-9 (ECF No. 85).

¹ Acting Director Uejio is automatically substituted as a party in this case by operation of Federal Rule of Civil Procedure 25(d).

Dated: May 21, 2021

Respectfully submitted,

/s/ Kevin E. Friedl

KEVIN E. FRIEDL (NY Bar No. 5240080)

KAREN BLOOM (DC Bar No. 499425)

Senior Counsel

Consumer Financial Protection Bureau

1700 G Street NW

Washington, DC 20552

Telephone: (202) 435-9268

Fax: (202) 435-7024

kevin.friedl@cfpb.gov

Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on May 21, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Michael A. Carvin
Christian G. Vergonis
Jones Day
51 Louisiana Ave. NW
Washington, DC 20001

Laura Jane Durfee
Jones Day
2727 N. Harwood
Dallas, TX 75201

/s/ Kevin E. Friedl
Kevin E. Friedl
Counsel for Defendants